

**Presentation to the
Standing Senate Committee on Agriculture and Forestry
Tuesday, April 28, 2009**

**Harry M. Bombay, Executive Director
National Aboriginal Forestry Association (NAFA)**

- I would like to thank the Standing Senate Committee on Agriculture and Forestry for inviting me to present an Aboriginal perspective on the forest sector. Recognizing that the work of this committee has just begun, we are one of the first organizations to appear before this committee and it is hoped that the essence of this presentation stays with you for the duration.
- First, a little background on NAFA. We are a non-governmental First Nation controlled organization focussed on research and advocacy activities in the forest sector. We advocate for policy frameworks that will address Aboriginal rights, values and interests, and will lead to a more equitable sharing of benefits from the forest resources from this vast land we call Canada. We wish to contribute to the broad goal of building an “Aboriginal Forest-Based Economy”. We recognize that an Aboriginal forest-based economy cannot be achieved in isolation of the broader forest sector and of the economic realities facing all forest industries in Canada. We do, however, have unique circumstances, challenges and opportunities.
- In my presentation to-day, I would like to respond to the four issues that you’ve identified and that you intend to address in your study of the forest sector. But first, I have to set the context.
- When I speak of the forest sector, I am referring to “all of the people and organizations that derive value and create wealth and well-being from our forests.” It includes the forest industries – pulp and paper, lumber, value-added and secondly manufacturing, commercial logging, non-timber forest products, forest bio-products and ecological goods and services. It also includes the forest management regimes of federal, provincial,

First Nation, and territorial governments and non-consumptive users that benefit from recreational, spiritual and wilderness activity and values.

- To this point in time, Aboriginal peoples have played a minor role in forest management and other forest sector activity despite these facts;
 - 80% of our communities are located in forested areas of the country,
 - The protection of our cultures, as expressed through our relationship with the land, and our prospects for future well-being, are all linked to healthy forests and the sustainable use of forest resources,
 - Aboriginal participation in the forest sector is conceptually, a fundamental component of sustainable forest management,
 - Aboriginal and treaty rights have been recognized through the courts and are constitutionally protected. They are in effect a form of forest tenure which has not yet been reconciled with other forest tenure systems.

- With respect to Aboriginal involvement in the forest industries, our role has been largely to provide labour and wood supply to large forest products companies. Most Aboriginal forest companies are involved in timber harvesting, silviculture, and the provision of a few other upstream forest management services. NAFA estimates that of the existing 1200-1400 Aboriginal forest-based businesses, more than 85% are concentrated in these areas. With respect to wood processing and manufacturing, First Nations hold an equity position in about 50 small wood processing establishments, a small fraction of the 3550 wood processing establishments that comprise the forest products industries throughout the country. (These figures are not current.)

- However, Aboriginal people are gaining a strengthened position in the forest sector. Aboriginal and treaty rights recognition has been the principle driver and it has led to the Crown's duty to consult and accommodate Aboriginal rights, values and interests. Other factors favouring an enlarged role for Aboriginal people in the forest sector include:

- Rights recognition, Crown duty to consult and accommodate
 - Sustainable forest management and forest certification
 - Demographics and labour force
 - Indigenous knowledge
 - Increased access to forest resources
- Concerning access to forest resources, the amount of forest land owned or managed by Aboriginal peoples is steadily increasing and currently it is greater in size than the total land base of Nova Scotia (55,000 square kilometres). This land base is extremely important to Aboriginal communities in maintaining their relationship to land, serving as the locus for the physical community, and the center for both timber and non-timber use in traditional territories. Included in the land base are Indian reserve lands, land claim settlement and treaty entitlement lands, and some fee simple lands, managed under a myriad of agreements and jurisdictional arrangements.
- Aboriginal owned/managed forest land and access to forest resources include:
 - Treaties, land claims, TLE, reserve lands – 55,000 sq. kilometers of forested land
 - Land base could double in 20 years
 - Forest Tenure: 10+ million m³/year includes FRO's and other licenses in BC (135) and NB (5.3%)
 - Forest management/stewardship agreements: La Paix des Braves, Whitefeather, Deh Cho, Innu
 - Provincial inclusion policies based on “duty to consult and accommodate”, i.e. UOI/MNR Forestry Framework Agreement Process
 - Grassy Narrows – blockade – agreement
- Additionally, Aboriginal communities and their forest enterprises are gaining access to forest resources through provincial forest tenure systems. First Nation interests across Canada hold tenure representing access to an annual harvest allocation of more than 10 million cubic meters of timber which is about 4.2% of the 2006 Canadian wood supply total. Within the past two years, several provinces have committed to

increasing forest resource allocations to Aboriginal communities through existing tenure arrangements and through specifically designed arrangements.

- While it appears First Nations are gaining a significant level of resource access, a closer look reveals:
 - the Aboriginal owned and managed forest land being acquired is in northern areas of country – north of the commercial forest – and the distance to markets make traditional forest industry approaches less viable.
 - most of the tenure gained through provincial tenure systems are short term volume based licenses, which confine Aboriginal communities to the role of logging contractor.
- With respect to the issue of forest resource access, overall there is no question that Aboriginal people have improved opportunity for forest-based development. From the perspective of Aboriginal people, we have to ask ourselves, “How are we going to derive optimum benefit from the forest resources that we are acquiring?” There are numerous challenges in addressing this.
- It is paradoxical that Aboriginal communities are gaining access to forest resources at a time when there is major transformation occurring in the forest sector. There is broad consensus in the forest sector that there will be a fundamentally different forest economy in the not too distant future. According to the Canadian Council of Forest Ministers, *“commodity producers will continue to contribute to the country’s economy”*, but *“maintaining a prosperous and sustainable future for the forest sector will mean taking advantage of new and emerging opportunities”* including more value-added processing and creating a renewable forest biomass economy. It is expected that there will also be new markets to capture ecological goods and services and that forest management will play a major role in mitigating climate change. In these areas of new opportunity, governments are prepared to make major change in policies and institutions that manage and allocate resources. Much of the research to rationalize the anticipated changes in forest

policy is now underway. In the federal government's Budget 2009, \$170 million additional forest research and research and development dollars was committed to research institutes to help companies seize the emerging opportunities. To this point in time, the needs of the Aboriginal forest sector have not been identified as an issue to be addressed through this and other federal initiatives.

- In our view the Federal Government has a key role and probably a legal obligation to implement measures to support the Aboriginal forest sector. In the broader forest sector, the federal government is responsible for issues of importance to the national economy, trade and international relations, federal lands and parks, and has constitutional, treaty, political and legal responsibilities for Aboriginal peoples and their interests. Stated in other terms, the federal government has jurisdictional responsibility for “Indians and lands reserved for Indians”, a fiduciary obligation for the good management of First Nation interests, a constitutional duty to protect Aboriginal and treaty rights, and in the honour of Crown, an obligation to meaningfully consult and in certain circumstances accommodate Aboriginal and treaty rights. Despite its constitutional responsibility, the federal government has been silent on the relationship between Aboriginal rights and interests and forest management processes in Canada.
- The federal government uses research, policy co-ordination initiatives, science, technology and worker adjustment programs, and a range of economic instruments to fulfill its forest sector responsibilities. The Aboriginal forest sector calls for a similar but much more direct and explicit approach – the mandate here is abundantly clear. On behalf of Aboriginal rights and interests and their growing prominence in national forest sector policy dialogue, the federal government should be exerting a stronger proactive voice in ensuring that Aboriginal rights and interests are addressed at the highest level as it does with other national forest management priorities within its sphere of jurisdiction.
- With respect to what the Federal Government can do for the Aboriginal forest sector, we would like to suggest:

1. That the federal government clearly define and promulgate its role in supporting the Aboriginal forest sector and the contribution it can make to the socio-economic advancement of Aboriginal peoples and to sustainable forest management generally.
2. That the federal government support the establishment of a national research and policy institute on First Nation forest/natural resource management and development issues. The institute would conduct research and provide policy advice on the interface between First Nations' socio-economic/institutional development and prevailing natural resource management regimes.
3. That the federal government develop a policy framework to support Aboriginal capacity-building in the forest sector through the alignment and co-ordination of human resource, educational, economic development, governance, forestry (FNFP), environmental, and land administration programs.
4. That the federal government support the establishment of an Aboriginal Centre for Research and Development Focussed on the Commercialization of Forest Products and Services. Diversification of the Aboriginal forest-based economy would be the primary purpose of the centre.
5. That the FNFP be renewed and that management and program delivery responsibility be transferred to a First Nation-controlled organization. Many of the key features of the FNFP would need to be maintained, i.e. regional delivery, leveraging mechanisms, however, the scope of the program would need to be enlarged to include seed funding for First Nation involvement in forest management and land use planning in traditional territories. This approach would require, at a minimum, a doubling of the national FNFP budget.
6. That the federal government undertake a review of Indian reserve forest management policy and practise with the intent to improve forest management on these lands and other lands coming under either First Nation or federal control.

7. That all federal policies, programs and initiatives of general application in the forest sector, contain an Aboriginal component with a dedicated budget, Aboriginal specific objectives, and approaches to implementation and delivery which will foster greater Aboriginal participation in the sector.
- Concerning the causes and origins of the current forest industries crisis, I do not disagree with any of the analyses presented to you by Mr. Jim Farrell of NRCan and Mr. Avrim Lazar of the Forest Products Association of Canada. I do think however, that the link between sustainable forest management, human rights, and competitive forest industries, is a matter that should not be overlooked. For example, the federal government's rejection of the UN Declaration on the Rights of Indigenous Peoples does not favour Canada's desired position as a world leader in sustainable forest management.
 - Concerning a vision for the forest industry in Canada, we would like to re-emphasize that there is more than one industry and that are numerous other players with an economic stake. Our vision is a more inclusive forest sector that enables, among other matters, an Aboriginal forest-based economy. Competitive forest industries in Canada are important to the Canadian economy and they are important to Aboriginal peoples, provided that we have the means to appropriately engage with the existing industries and the emerging industries.